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CIVIL AND POLITICAL RIGHTS

Human rights and arbitrary deprivation of nationality

Report of the Secretary-General

Addendum

Information submitted by the Government of the United States of America

1. The Congress of the United States is vested with the authority to enact legislation concerning United States nationality, and to set criteria for acquisition or loss of United States citizenship.

2. Qualifying grounds for acquisition of United States citizenship are principally based on birth in the United States, the nationality of an individual's parents and/or lawful residency in the United States. In accordance with the fourteenth amendment to the Constitution of the United States, all persons born within the United States are citizens (except persons such as diplomats accredited to the United States who are not subject to United States jurisdiction). Alternatively, qualified non-citizens may acquire United States citizenship through naturalization in the United States, after which their citizenship is protected.

3. A person may possess or even acquire another nationality and nonetheless retain United States citizenship. The US Department of State has an administrative presumption that United States citizens intend to retain their citizenship when they perform certain statutory expatriating acts such as becoming a citizen of a foreign State, subscribing to routine declarations of allegiance to a foreign State and accepting non-policy level employment with a foreign Government.

4. A person cannot waive citizenship nor relinquish it by unilateral declaration except as provided by law. The United States has, however, recognized the right of expatriation as an inherent right of all people - even where this could result in statelessness. Citizens of the United States can surrender their United States nationality through voluntary performance of a statutorily specified expatriating act with the intention of relinquishing citizenship.

5. Further, United States citizens can be subject to loss of nationality. Section 349 of the Immigration and Nationality Act states that United States citizens are subject to loss of citizenship if they perform certain acts voluntarily and with the intention of relinquishing United States citizenship such as: naturalizing in a foreign State, taking an oath to a foreign State or its political subdivisions, entering or serving as a commissioned or non-commissioned officer in the armed forces of a foreign State or entering or serving in the armed forces of a foreign State engaged in hostilities with the United States, working for a foreign Government if (a) he or she has that foreign nationality, or (b) he or she has made a declaration of allegiance to a foreign State in accepting the position, formally renouncing United States citizenship before a United States consular officer outside the United States, formally renouncing United States citizenship within the United States within a time of war, and committing an act of treason when there is a conviction. In addition, a person who acquires United States citizenship after birth through naturalization in the United States is subject to loss of United States citizenship if naturalization is obtained improperly. The United States recognizes that fraudulently obtained citizenship may be revoked even if the individual is rendered stateless as a result.

6. The United States Government may bring a civil action to revoke a person's naturalization if that person obtained naturalization illegally or by wilful concealment or misrepresentation of facts material to eligibility for naturalization. In this case, that person has a legal right to have the issue resolved in a court of law. Any decision may be subject to appeal and the individual is guaranteed all due process protections.